



MEMO ENDORSED

THE CITY OF NEW YORK

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June 12, 2023

BY EMAIL

Honorable Colleen McMahon
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Schedule OK
Colleen McMahon
6/13/2023

Re: *Ilya Vett v. City of N.Y. et al.*, 20 Civ. 2945 (CM) (SN)

Your Honor:

I am an Assistant Corporation Counsel assigned to represent Defendants in the above-captioned action. The parties write jointly to propose a briefing schedule for Defendants anticipated motions for summary judgment and to preclude the testimony of Plaintiff's expert.

Discovery in the matter closed on May 15, 2023 and Defendants intend to move for summary judgment and to preclude the testimony of Ofc. Peter Miscia, Plaintiff's purported firearms expert. ECF No. 65. Pursuant to Rule V(E)(3) of the Court's Individual Practices, any party that intends to move to preclude the testimony of an expert under Federal Rules of Evidence 702-705 or the *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) line of cases must do by the deadline to move for summary judgment, not *in limine*. Because the Court's Individual Practices and Procedures are silent as to the deadline to move for summary judgment, Defendants' current deadline to file their anticipated motions is June 14, 2023—30 days from the close of all discovery. Fed. R. Civ. P. 56(b). Pursuant to Rule V(F) of the Court's Individual Practices, Plaintiff's deadline to oppose Defendants' summary judgment and *Daubert* is currently June 28, 2023—14 days after Defendants' deadline to file their motions—and Defendants' current deadline to file their reply memoranda is July 3, 2023—five days after Plaintiff's deadline to file his opposition.

The parties jointly propose the below briefing schedule to accommodate counsels' other briefing and litigations schedules and to ensure that the parties have adequate time to brief both of Defendants' anticipated motions. Because the parties must brief two motions simultaneously, Defendants require additional time to file their moving papers and the parties require additional time to draft their opposition and reply memoranda, respectively. Defendants also require an extension of the current briefing schedule because defense counsel must also must file two reply

memoranda and one motion for summary judgment in the coming weeks. Plaintiff requests an extension of the current briefing schedule due to scheduled depositions, an inquest and summer vacation in the months of June, July and August. Accordingly, the parties respectfully request that the Court endorse the below briefing schedule for Defendants' anticipated summary judgment and *Daubert* motions.

<u>Event</u>	<u>Current Deadline</u>	<u>Proposed Deadline</u>
Defendants' deadline to file their summary judgment and <i>Daubert</i> motions	June 14, 2023	July 19, 2023
Plaintiff's deadline to oppose Defendants' summary judgment and <i>Daubert</i> motions	June 28, 2023	August 30, 2023
Defendants' deadline to file reply memoranda	July 3, 2023	September 20, 2023

The parties thank the Court for its consideration in this matter.

Respectfully submitted,

/s/ *James R. Murray*

James R. Murray
Assistant Corporation Counsel

c.c. Henry Bell, Esq. and Andrew Stengel, Esq. (VIA ECF),
Counsel for Plaintiff